IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8593 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAFIK AAMADBHAI QURESHI

Versus

STATE OF GUJARAT

Appearance:

MR YATIN SONI for Petitioner

RULE SERVED for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE H.R.SHELAT

Date of decision: 20/10/2000

ORAL JUDGEMENT

The petitioner by this application under Article 226 of the Constitution of India calls in question the legality and validity of his detention order dated 11th July 2000 passed by the Police Commissioner, Rajkot City, exercising the power under Section 3 of the Prevention of Anti-Social Activities Act, (for short "the Act").

2. Against the petitioner three cases under the Bombay Prohibition Act came to be lodged with two police

stations of them two cases for the offences punishable under Section 66(1)(b), 65A, 65B, 116-B and 81 were lodged with Rajkot Taluka Police Station on 5th July 2000 alleging that he was found in possession of 101 and 123 English liquor bottles without pass or permit. The third case is lodged in Junagadh city B division police station on the same day wherein it is alleged that the ambassador car being driven by the petitioner when intercepted 96 English liquor bottles were found without any pass and permit. The Police Commissioner when perused the record found that the petitioner was a bottlegger and his activities were subversive to public order and injurious to the public health. He therefore perusing the record found that to check the petitioner's activities injurious to the public health and public order, his detention was the only way out. The Police Commissioner therefore passed the order on 11th July 2000 pursuant to which the petitioner came to be arrested and at present he is under detention.

3. The learned advocate representing the petitioner has submitted on different grounds, but when a query was made he tapered off his submissions confining to the only ground, namely non-supply of documents in the language known to the petitioner; and whatever documents are supplied they are not legible with the result it was difficult for the petitioner to study the same and know what was alleged against and on what base and decide what would be the defence, with the result his valuable right is marred.

4. The learned A.P.P., Mr. Sudhansu Patel on this point is not in a position to address the Court as no one has come from the concerned department with necessary file, as a result of which he does not have instruction in the matter.

5. From the record, it appears that a request through the representation was made for having the copies of the documents in the language known to the petitioner because the petitioner was not knowing English language as the documents were supplied in English. If the documents are not supplied in the language known to the petitioner it will amount to depriving him of the opportunity to make effective representation and put up his case effectively. Secondly in this case the documents supplied in English language were shown to me. On going through the same I also found it difficult to read as the documents written by hand and the xerox copy thereof are not legible as the handwritings are not clear. When the documents supplied are not legible it

will be difficult for the petitioner to evaluate the evidence and then make the representation for which a right is available under Article 22(5) of the Constitution. For want of legible document and also in the language known, the petitioner's valuable right to represent his case is jeopardised. The impugned order on this ground cannot be maintained.

6. For the aforesaid reasons, this application is allowed. The order of detention passed by the Police Commissioner, RAjkot City on 11th July 2000 is hereby quashed and set aside. The petitioner is ordered to be set at liberty forthwith if no longer required in any other case. Rule accordingly is made absolute. Direct service permitted.

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rmr.